

## APPENDIX A

### OVERTIME/COMPENSATORY TIME ENTITLEMENT

1. Entitlement to overtime pay is governed by the provisions of Title 5 and the Fair Labor Standards Act. Title 5 covers executive (supervisors and managers), administrative, and professional employees. The Fair Labor Standards Act (FLSA) applies to employees whose positions are determined to be NON-EXEMPT; i.e., covered by the Act. An employee's official job description indicates whether the employee's position is exempt or non-exempt.

#### 2. Overtime Provisions for Exempt Employees.

a. Overtime Entitlement Under Title 5. Title 5 provides overtime pay entitlement for work in excess of forty (40) hours in an administrative workweek or in excess of eight (8) hours in a day. Hours for which the employee is absent for legal holidays, or on paid leave or compensatory time are counted as hours worked; however, periods of leave without pay are not counted.

#### b. Overtime Pay Under Title 5.

##### (1) General Schedule/GM.

(a) If an exempt employee's rate of basic pay does not exceed the minimum rate for GS-10, overtime is paid at one and one-half times the employee's hourly rate of basic pay.

(b) If an exempt employee's rate of basic pay exceeds the minimum rate for GS-10, overtime is paid at one and one-half times the hourly rate of pay for GS-10, Step 1.

(c) The hourly rate used to compute overtime is the basic rate of pay which includes any special rate of pay established for the employee's grade and a locality based comparability payment. Premium pay rates for night differential, holiday pay, and Sunday pay are not used to compute overtime.

##### (2) Wage Grade.

(a) Wage grade employees are paid for overtime work at a rate of one and one-half times their rate of basic pay.

(b) Overtime for Sunday and holiday work is paid at one and one-half times the rate of basic pay. For an employee working a shift for which night differential is payable, overtime is paid at one and one-half times the night rate.

c. Compensatory Time Under Title 5. Under Title 5, an exempt employee may request that he or she be granted compensatory time off instead of overtime pay; however, employees in grades GS-12 and above may be required to accept compensatory time off in lieu of overtime pay and the use of compensatory time for these employees will be carefully monitored to preclude conversion to overtime pay.

d. Maximum Premium Pay Entitlement/Compensatory Time Earnings Under Title 5.

(1) Except as provided in (2) below, premium pay for overtime, night, Sunday and holiday work, etc., may be paid only to the extent that the payment does not cause the total of the employee's basis pay and premium pay for any pay period to exceed the maximum rate for GS-15 (including a locality based comparability payment and a special salary rate).

(2) If an emergency exists, as determined by appropriate authority, an exempt employee may be paid premium pay under the annual limitation described in (3) below instead of under the biweekly limitation. However, a waiver must be approved before premium pay can be paid under the annual limitation. HQUSACE is the approval authority for waivers involving natural disaster work. The Department of the Army approves waivers for other situations.

(3) In any calendar year during which an employee has been determined to be performing work in connection with an emergency, premium pay will be paid to the extent it does not cause the total of his/her basic pay to exceed the maximum rate for GS-15 in effect on the last day of the calendar year including a locality-based comparability payment and a special salary rate.

(4) Compensatory time off which may be earned by an employee in any one pay period is limited to the number of hours for which the employee would otherwise be entitled to receive overtime compensation before reaching the limitation on total pay period earnings.

(5) More detailed guidance concerning pay entitlements under emergency situations may be found in the U.S. Army Corps of Engineers Function Guide available through your local Readiness Office.

3. Overtime Provisions for Non-Exempt Employees.

a. Overtime Entitlement Under FLSA. Entitlements to FLSA overtime pay accrues on the same basis as under Title 5; i.e., for hours of work in excess of 8 in a day or 40 in a work week. For the purpose of calculating overtime pay under the FLSA, hours in a paid non-work status

(e.g., paid leave, holidays, compensatory time off, or excused absences) are deemed to be hours of work; however, periods of leave without pay are not counted.

b. Overtime Pay Under FLSA. Overtime is paid at the rate of one and one-half times a non-exempt employee's hourly rate of pay.

c. Compensatory Time Under FLSA. A non-exempt GS or Wage system employee who requests compensatory time off from his/her scheduled tour of duty instead of pay for overtime work may be granted such compensatory time; however, there is no legal authority to require that a non-exempt employee take compensatory time off in lieu of overtime pay under FLSA.

d. Maximum Overtime Limit Under FLSA. Any overtime paid under the provisions of the FLSA is not subject to the limitation of maximum earnings discussed under Title 5.

APPENDIX B  
OVERTIME FOR TRAINING

1. Exempt Employees (Title 5). No funds may be used to pay premium pay to an employee engaged in training by, in, or through Government facilities or non-government facilities, except as follows:

a. An employee given training during a period of duty for which he or she is already receiving premium pay for overtime, night, holiday, or Sunday work. (This exception does not apply to an employee assigned to full-time training at institutions of higher learning.)

b. An employee given training at night because situations which he or she must learn to handle occur only at night.

c. An employee given training on overtime, on a holiday, or on a Sunday because the costs of the training, premium pay included, are less than the costs of the same training confined to regular work hours.

d. An employee given training during a period not otherwise covered by a provision of this paragraph may be paid premium pay when the agency has been granted an exception by the U.S. Office of Personnel Management.

2. Non-Exempt Employees (FLSA). The fact that an agency has authorized the expenditure of government funds for an employee's attendance at training has no bearing on the determination of whether time spent in training is considered hours of work.

a. Time spent in training during regular working hours is considered hours of work.

b. Time spent in training or preparing for training outside regular working hours is considered hours of work if the agency requires the training to:

(1) Bring performance up to a Successful Level 3 level, or

(2) Provide knowledge or skills to perform new duties and responsibilities in the employee's current position.

c. Time spent by the employee performing work for the agency during a period of training is considered hours of work.

d. Time spent attending a lecture, meeting, or conference is considered hours of work if attendance is:

- (1) During the employee's regular working hours; or
- (2) Outside the employee's regular working hours, and
  - (a) The employee is directed by the agency to attend such an event; or
  - (b) The employee performs work for the benefit of the agency during the attendance.

e. Time spent in apprenticeship or other entry level training, or internship or other career related work study training, or training under the Veterans Readjustment Act outside regular working hours is not considered hours of work, provided no productive work is performed during these periods.

f. Time spent in training or preparing for training outside the employee's regular working hours for the following purposes is not hours of work if:

(1) The training is to improve a nonexempt employee's performance in his or her current position above a Successful Level 3 level, provided such training is undertaken with the knowledge that the employee's performance or continued retention in his or her current position will not be adversely affected by non-enrollment in the training program; or

(2) Training is to provide a nonexempt employee with additional knowledge or skills for reassignment to another position or advancement to a higher grade in another position, even if the training is directed by the agency.

APPENDIX C  
OVERTIME FOR TRAVEL

1. Exempt Employees (Title 5). Whenever possible travel should be scheduled within the employee's regular work hours. Time in travel status away from the official duty-station of an employee is deemed employment only when:

a. It is within the employee's regularly scheduled administrative workweek, including regular overtime work; or

b. The travel:

(1) Involves the performance of actual work while traveling;

(2) Is incident to travel that involves the performance of work while traveling;

(3) Is carried out under such arduous and unusual conditions that the travel is inseparable from work;

(4) Results from an event which could not be scheduled or controlled administratively, including travel by an employee to such an event and the return of the employee to his or her official-duty station.

NOTE: The prohibition against payment of premium pay to employees during the periods of training does not prevent payment of overtime pay to employees traveling to and from places of training.

2. Non-Exempt Employees (FLSA).

a. Time spent traveling (excluding bona fide meal periods) is considered hours of work if the employee is required to:

(1) Travel during regular working hours;

(2) Drive a vehicle or perform other work while traveling;

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(3) Travel as a passenger on a one-day assignment away from the official duty station; or

(4) Travel as a passenger on an overnight assignment away from the official duty station during hours on non-workdays that correspond to the employee's regular working hours.

b. An employee who travels from home before the regular workday begins and return home at the end of the workday is engaged in normal "home to work" travel; such travel is not hours of work. When an employee travels directly from home to a temporary duty location outside the limits of his or her official duty station, the time the employee would have spent in normal home to work travel will be deducted from hours of work.

c. An employee who is offered one mode of transportation, and who is permitted to use an alternate mode of transportation, or an employee who travels at a time other than that selected by the agency is credited with the lesser of:

(1) The actual travel time which is hours of work under this section; or

(2) The estimated travel time which would have been considered hours of work under this section had the employee used the mode of transportation offered by the agency, or traveled at the time selected by the agency.